

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("Agreement") is made by and between the Sammamish Plateau Water and Sewer, a municipal corporation ("District") and the City of Issaquah, a municipal corporation ("Issaquah") (individually a "Party" and collectively the "Parties") for the purposes set forth herein.

RECITALS

A. Issaquah has applied to the State of Washington Department of Ecology ("Ecology") for a permit to discharge stormwater from approximately 81 acres within the Issaquah Highlands development ("Project Area") into the Lower Reid Infiltration Gallery ("LRIG") and from the LRIG into the ground in the Lower Issaquah Valley ("LIV"). The District maintains public water supply wells in the Lower Issaquah Valley Aquifer ("LIVA") located down gradient of the LRIG which provide approximately fifty (50) per cent of the District's water supply.

B. The Parties, together with City of Sammamish representatives, have undertaken a process in good faith to address the disposition of stormwater from the Project and have agreed to decommissioning of the LRIG and to provide additional funding for stormwater management within the Project Area which the Parties feel will address the objectives and concerns of all of the Parties regarding the disposition of the Project Area stormwater.

C. The purpose of this Agreement is to describe the commitments agreed upon by the Parties.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual considerations contained in this Agreement, the Parties agree as follows:

1. This Agreement shall be signed by authorized representatives of the Parties by Monday, January 13, 2014, or shall have no further force or effect. The execution of this Agreement will require the Parties to negotiate an Interlocal Agreement (ILA) which will provide for the decommissioning of the LRIG and funding for the management of stormwater within the Project Area. A draft ILA shall be prepared no later than February 18, 2014, for consideration and final action and approval by the City Council and District Board of Commissioners no later than March 17, 2014, or this Agreement with respect to the ILA shall have no further force and effect.

2. The Parties also agree to prepare a separate contractual agreement which shall be approved by the District Board of Commissioners and the City Council and executed by duly authorized representatives by January 21, 2014, fully incorporating the terms and conditions in Paragraph No's 8, 10, 11 and the further provision that the District agrees not to publically respond to the City's August 2013 Assumption Study of the District ("Assumption Study") or release any report on the Assumption Study unless required to do so as a matter of law.
3. The District shall fund up to \$1,000,000.00 for the decommissioning of the LRIG and funding for management of stormwater within the Project Area. The District's funding for decommissioning the LRIG will be available to reimburse Issaquah once the District has approved plans to decommission the LRIG and the LRIG has been decommissioned. The balance of the funding commitment from the District up to a total of \$1,000,000 will be available to reimburse invoices submitted by the City for stormwater management projects within the Project Area.
4. Issaquah shall decommission the LRIG in 2014 in accordance with an agreed schedule as set forth in the ILA. The City agrees to decommission the LRIG in a manner acceptable to the District that will render the LRIG inoperable for injection or infiltration of stormwater as set forth in the ILA. The City further agrees that it will not re-commission the LRIG to inject or infiltrate stormwater at the LRIG without the written approval of the District.
5. Issaquah shall own and assume sole operational and maintenance responsibility for any additional stormwater treatment or management facilities within the Project Area and related structures and piping.
6. This Agreement is not contingent on any monitoring or reporting requirements; any such requirements would be outside this Agreement and subject to the City's Phase II Municipal Stormwater Permit for Western Washington ("Phase II Permit"). The District agrees it will not appeal the City's permit to discharge stormwater under the Phase II Permit or otherwise challenge the City's discharge of stormwater from the Project Area to surface water.
7. Issaquah agrees not to inject or infiltrate stormwater from the Project Area to the LRIG site or to another site within the Lower Issaquah Valley and will withdraw its application to DOE for a Washington State waste discharge permit within ten (10) days of the execution of the ILA.

8. The Parties agree if Issaquah determines to proceed with an assumption of all or part of the District and its property and utility facilities located within Issaquah under Chapter 35.13A RCW, or to allow or to consent to another city proceeding with the assumption of all or part of the District and its property and utility facilities located within Issaquah, within ten (10) years of the effective date of the ILA, Issaquah agrees to only do so with the consent of the District and based on a process and schedule agreed to by the Parties. Provided, the City shall have the right to proceed with a unilateral attempt to assume the District immediately after the expiration of such ten-year period. Beginning no later than year three (3) of the ten-year period, the Parties will undertake three-party discussions, including Sammamish, regarding governance and utility service delivery options relative to the District, Issaquah, and Sammamish. As part of such discussions, the Parties agree to promptly and in good faith provide and disclose non-exempt public records to facilitate the discussion and study process.
9. The District agrees to dismiss its pending appeal regarding the Phase II Permit presently before the PCHB and further agrees to waive any and all claims related to the LRIG as long as the LRIG site is not used to inject or infiltrate stormwater. The release and waiver of claims regarding the City's proposed wastewater discharge permit for the LRIG will be mutual and each Party agrees to bear its own fees and costs.
10. The District will not take any formal position with respect to the City's proposed annexation of the Klahanie PAA area relative to the February 11, 2014 election.
11. The Parties agree to resolve all outstanding claims regarding public records act disputes, withdraw existing public records requests, and shall mutually waive all claims and each bear their own costs and fees, associated with those requests and related disputes. The Assumption Study will not be used in the future.
12. The Parties agree that any press release regarding this Agreement shall be jointly approved and shall clearly state that the terms of this Agreement are in anticipation of and contingent upon the execution of an ILA between the Parties. Following the mutual execution of an ILA as referenced in Section 1 above, the Parties will issue a joint press release regarding the resolution of the issues addressed in the ILA, the contents of which the Parties shall mutually agree to. Neither Party will issue a press release or communicate with news services regarding the issues addressed in the ILA that deviates from the agreed-upon terms of the joint press release. Within 48 hours of execution of the separate agreement described in Paragraph 2 above, the District shall also remove its signs referencing the District's web site www.letstalkaboutourwater.org, decommission such web site, and de-link such web site from the District's general web site and remove all related links from the District's general web site.

13. The Parties agree that all terms and conditions of the ILA and the non-assumption agreement described in Paragraph 2 above shall be subject to enforcement in an action for specific performance.

14. The above Recitals are incorporated by reference herein and made part of this Agreement.


SAMMAMISH PLATEAU WATER AND SEWER DISTRICT

By: 

Its: Board of Commissioners President

Dated: 1/13/2014

CITY OF ISSAQUAH

By: 

Its: Mayor

Dated: 1/13/2014